

INTERNAL REVENUE SERVICE
District Director
McCaslin Industrial Park
2 Cupania Circle
Monterey Park, CA 91755-7406

DEPARTMENT OF THE TREASURY
Western Key District

CERTIFIED MAIL

OCT 31 1997

Person to Contact:

Telephone Number:

Refer reply to:

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code (Code).

FACTS:

The information submitted discloses that the organization was incorporated [REDACTED]

The purpose of your organization as stated in article II of your articles of incorporation (Articles) is "the education and ordination of ministers and clergy for spiritual and therapeutic practices."

Article 2, section 2 of the by-laws states that the specific objectives and purposes of the organization are "the education and ordination of ministers and clergy for spiritual and therapeutic practices."

Your application, Form 1023, indicates that your organization's activities consist of the promotion of the evolution of human consciousness and healing via the training and ordination of healing ministers in a two-year program of vibrational healing, spiritual counselling, conflict resolution, first aid, group therapeutic practices, public speaking and ministerial practices. Additionally, the board, ministers and students promote, produce and manage annual community events to promote greater community awareness of healing techniques by sponsorship of notable natural healers in workshop events, which are usually held at a rental facility. Lastly, the ministers offer private and group spiritual counseling and healing sessions at locations that are determined by ministerial discretion.

The organization states that they are a church and will accept no other foundation status. The mission statement submitted by your organization reads in part as follows:

" The mission of these non-denominational ministries is to be accomplished via teaching, education, practice and support of holistic healing arts within the greater community and whenever possible, to be of service to that community. We operate from a base of integrity, honesty and willingness to resolve conflict and recognize the Divinity of All."

In a letter dated April 4, 1997 in your answers to the Agent's question asking you to submit a breakdown list of your activities you stated that following:

- "1) 30 percent of our work is educational to general public, offering workshop events featuring nationally known natural healers.
- 2) 60 percent of our work is engaging in educational events to support ministerial students in preparation for ordinations, usually in weekend seminars which train students in ministerial and healing skills.
- 3) 10 percent of our activities focus on administration of these workshops and ordinations, creation of the organization's by-laws and other governing documents, financial accountability and strategic planning."

Information provided in your application indicates that worship services include healing works, which are performed by individual ministers, in either group or individual settings. A schedule of the organization's worship services was not provided. You further indicated that the organization has an established place of worship and also other places of worship which include area churches, private homes and rental facilities as determined at ministers' discretion.

In addition to worship services, you indicated that sacerdotal duties, which include weddings, healing services and ordinations, are performed by the organization. The organization does not have a school for the religious instruction of the young. The organization does, however, license and ordain ministers after the successful completion of a two-year course of study.

Although the organization did accept some donations, your financial data indicates that your primary sources of income in 1995 and 1996 were derived from fees paid to attend workshops, speaker events and weekly study groups. Your expenses during the same period covered educational workshops, donations, various state filing fees, celebration/gifts, ordination expenses, sales tax, printing, supplies, etc. No compensation is paid by the organization to its ministers for any services rendered but they receive from 5 to 10 percent of the income from fees charged.

1995

1996

GROSS RECEIPTS

\$ [REDACTED]

\$ [REDACTED]

CONTRIBUTIONS

[REDACTED]

[REDACTED]

INVESTMENTS

[REDACTED]

[REDACTED]

TOTAL \$ [REDACTED]

\$ [REDACTED]

You show no salaries for your ministers or speakers but you show a percentage of the income from the workshops going to the speakers. In 1995 you show total expense of \$ [REDACTED], of which [REDACTED] \$ [REDACTED]. In 1996 you show total expense of \$ [REDACTED] \$ [REDACTED]. The Proceeds are from the workshops conducted by the speakers.

Your correspondence dated May 10, 1997 indicates that the ministers independently perform sacerdotal duties since they reside in three different states. Based on a conversation with your president, [REDACTED], on [REDACTED], and a subsequent correspondence from your organization dated June 17, 1997, we found that the ministers are directly compensated by the worshippers through contributions received at worship services and other sacerdotal functions. The latest correspondence states that "Ministers who have been ordained by the [REDACTED] are free to practice their ministries within the guidelines of the organization." The ministers offer their own classes, which are not underwritten by the [REDACTED]. The correspondence further indicates that since the ministers are solely responsible for the promotion and delivery of classes as well as other ministerial duties, the organization does not expect any income from their works or pay for any of the ministers' expenses including facility rentals. You indicated that your organization's operations were similar to [REDACTED]. The correspondence states, "[REDACTED] does review the training of ministerial students, and once the student have been demonstrated (sic) competent as a minister, offer an ordination and certificate of ordination, and annual review of a minister's ministry."

ISSUE:

Does the organization qualify for exemption as a church as described in section 501(c)(3) of the Internal Revenue Code?

LAW:

Section 501(c)(3) of the Internal Revenue Code describes certain organizations exempt from income tax under section 501(a) and reads as follows:

(3) Corporations, and any community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part its activities involve the provision of athletic facilities or any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that for an organization to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c) of the Regulations defines the operational test. It states that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities in not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

In People of God Community vs. Commission of Internal Revenue, a church was denied exemption because contributions personally benefited the ministers. The organization failed to show that the ministers' salaries were reasonable and the method of computation was not unreasonable.

In Church of Gospel Ministry, Inc. vs. U.S., a church was denied exempt status and the right to receive deductible contributions because 1) the church did not keep adequate records to determine the full nature of its operations and 2) it failed to show lack of beneficial inurement to its officers.

The term "church" is not specifically defined in the Internal Revenue Code; however, the Internal Revenue Service has formulated certain criteria that are used to determine whether or not an organization qualifies as a "church." The position of the Internal Revenue Service is that, to be a "church" for tax purposes, the

organization must satisfy at least some of the following criteria: 1) a distinct legal existence; 2) a recognized creed and form of worship; 3) a definite and distinct ecclesiastical government; 4) a formal code of doctrine and discipline; 5) a distinct religious history; 6) a membership not associated with any other church or denomination; 7) an organization of ordained ministers; 8) ordained ministers selected after completing prescribed courses of study; 9) a literature of its own; 10) established places of worship; 11) regular congregations; 12) regular religious services; 13) Sunday schools for the religious instruction of the young; and 14) schools for the preparation of its ministers.

ANALYSIS AND CONCLUSION:

To qualify for exemption as a church under section 501(c)(3) of the Code, an organization must meet the special tax rules which applies to the purposes specified in that regard. Based on the information submitted, it appears your organization does not meet the operational test. The main purposes of the organization's existence are: 1) to train, license and ordain ministers after the completion of prescribed courses of study, and 2) to conduct study groups, workshops and speaker events. In the application, you stated that the organization performs sacerdotal functions (i.e. weddings, healing services and ordinations). Subsequent information provided by your organization indicates that the sacerdotal duties are actually performed independently by ministers, who are members of your organization, rather than by the organization. Additionally, religious services are performed at different locations depending on the facilities' space capacities. You have given a percentage breakdown of your activities, 100 percent of which are educational.

Your organization's activities are similar to those of the organization in Church of Gospel Ministry, Inc. The primary activities of the organization are to train, license and ordain ministers as well as to hold weekly study groups, workshops and speaker events. The sacerdotal functions, however, are independently conducted by individual ministers in three different states with no apparent oversight by the organization of funds and expenses from these services. In Church of Gospel Ministry, Inc., "...missing funds and the lack of adequate records makes it impossible for CGM to establish that it is not being operated for the private benefit of its members and provides independent grounds for rejecting its claim to tax-exempt status. Moreover, the inadequate accounting and evidence of private inurement makes it impossible to determine whether CGM's religious and charitable activities are really its primary activities.

As you are not exclusively engaged in exempt church activities specified in the special rules set up by the Internal Revenue Service and which the courts have sanctioned, you fail to meet the operational test. That is, you are not operated exclusively for church purposes. Therefore, we conclude that you do not qualify for exemption from Federal income tax as a church described in section 501(c)(3) of the Internal Revenue Code.

Accordingly, you are required to file income tax returns, Form 1120, U.S. Corporate Income Tax Return, annually with your respective Service Center.

Donations to you are not deductible by donors under section 170 of the Internal Revenue Code.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018, Consent to Proposed Adverse Action. Please note the instructions for signing on the reverse side of the form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our Office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange for a hearing. The hearing may be held at the Office of Regional Director of Appeals, or if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within thirty days from the date of this letter and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,


Steven A. Jensen
District Director

Enclosures:
Form 6018
Publication 892

Department of the Treasury Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption as a church described in section 501(c)(3) of the Internal Revenue Code.
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(1), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

X

Signature and Title

Date

X

Signature and Title

X

Date